

# **CITY COUNCIL AGENDA**

**SEPTEMBER 9, 2003**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.ci.san-jose.ca.us/cty\\_clk/agenda.htm](http://www.ci.san-jose.ca.us/cty_clk/agenda.htm)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:35 a.m. - Closed Session, Room 600, City Hall  
**Absent Council Members: Campos, Dando, LeZotte. (Excused)**  
  
1:37 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Campos, Dando, LeZotte. (Excused)**
- **Introduction**  
Mayor Gonzales commented on the September 11, 2001 tragedy, and how our world and lives changed; contemplating how thousands of lives were suddenly lost; rejoicing how the true strength of America sustains us, and for everyone to treasure our families and friends, as each day is a gift.
- **Invocation (District 8)**  
William Stout, Catholic Chaplain, San José Fire Department, Agnews Development Center gave an inspirational invocation by honoring the victims of the September 11, 2001 tragedy.
- **Pledge of Allegiance**  
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day, and the Amended Agenda were approved. Item 4.3, and Item 2.1(c) were deferred to 9/16/03.  
  
The Council of the City of San José was adjourned in memory of Bob Clayton, Acting Director and one of the founders of ARIS.

# 1 CEREMONIAL ITEMS

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There were no Ceremonial Items.

## 2 CONSENT CALENDAR

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### 2.1 Approval of Minutes.

**Recommendation:** Approval of City Council Minutes for:

- (a) Regular meeting of March 25, 2003
- (b) Joint City Council/Redevelopment Agency Board meeting of March 25, 2003

**Approved.**

- (c) Regular meeting of April 1, 2003  
**Item 2.1(c) deferred to 9/16/03.**

- (d) Regular meeting of April 8, 2003
  - (e) Joint City Council/Redevelopment Agency Board meeting of April 8, 2003
- Approved.**

### 2.2 Final adoption of ordinances.

There were none.

### 2.3 Approval of an agreement related to an Airport gate scheduling system.

**Recommendation:** Approval of the fourth amendment to the agreement for consultant services regarding Airport gate management with John F. Brown Company, increasing the maximum compensation by \$100,000, to a total maximum compensation of \$200,000, and extending the term from September 30, 2003 to June 30, 2004. CEQA: Resolutions No. 67380 and 71451, PP 03-08-252. (Airport)

**Approved.**

### 2.4 Approval of various actions related to Arts Day in San José.

**Recommendation:** Adoption of a resolution setting Thursday, October 9, 2003, as Arts Day in San José, and authorizing the San José Arts Commission and the Office of Cultural Affairs, Conventions, Arts and Entertainment, to promote an Arts Day event for San José arts and cultural organizations to increase public awareness of the arts. CEQA: Not a Project. (Conventions, Arts and Entertainment)

**Resolution No. 71733 adopted.**

## 2 CONSENT CALENDAR

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### 2.5 Approval of actions regarding a compostable pilot program.

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute the second amendment with GreenTeam of San José for Recycle Plus Integrated Waste Management Services, to make changes necessary for the operation of a compostable pilot program at multi-family properties, at no additional cost to the City. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)

**Resolution No. 71734 adopted.**

### 2.6 Approval to designate a public right-of-way.

**Recommendation:** Adoption of a resolution designating the following as public right-of-way:

- (a) A 25-foot wide strip of City-owned property to accommodate the widening of the south side of Tully Road between Kenoga Drive and Coyote Creek; and
- (b) A 16-foot wide strip of City-owned property to accommodate the improvement of the west side of Kenoga Drive from Tully Road to approximately 330 feet south of Tully Road.

CEQA: Mitigated Negative Declaration, PP02-04-080. Council District 7. (Public Works)

**Resolution No. 71735 adopted.**

### 2.7 Approval to award a contract for the Cypress Senior Center Kitchen Renovation Project.

**Recommendation:**

- (a) Report on bids and award of contract for the Cypress Senior Center Kitchen Renovation Project to the low bidder, Tucker Construction, Inc. in the amount of \$198,600, and approval of a contingency in the amount of \$39,720.

**Approved.**

- (b) Adoption of the following appropriation ordinance and funding source resolution amendments in the Community Development Block Grant (CDBG) Fund:

- (1) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Cypress Senior Center Kitchen Upgrade Project by \$155,857.

- (2) Increase the Unrestricted Beginning Fund Balance Estimate by \$155,857.

CEQA: Exempt, PP 03-06-218. NEPA: Exempt: Categorically Excluded per 58.35(a)(3). Council District 1. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

**Ordinance No. 26975 adopted.**

**Resolution No. 71736 adopted.**

## 2 CONSENT CALENDAR

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### 2.8 Approval of actions relating to the San José Elections Commission.

**Recommendation:** Approval of actions relating to the San José Elections Commission:

- (a) Approval of an ordinance amending Titles 2, 4, and 12 of the San José Municipal Code to reflect the change in name of the Campaign Finance Review and Ethics Board to the San José Elections Commission.

**Ordinance No. 26976 passed for publication.**

- (b) Adoption of a resolution amending the Rules and Procedures of the San José Elections Commission to reflect the change in name of the Campaign Finance Review and Ethics Board to the San José Elections Commission.

(City Attorney's Office)

(Rules Committee referral 9/3/03)

**Resolution No. 71737 adopted.**

### 2.9 Approval of appointments to the City of San José Housing Trust Fund Board.

**Recommendation:** Approval of appointments to the City of San José Housing Trust Fund Board. (Mayor)

(Deferred from 9/2/03 – Item 2.7)

**Deferred to 9/16/03.**

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – August 27, 2003

**Vice Mayor Dando, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review September 9, 2003 Draft Agenda

**The Committee recommended approval of the September 9, 2003 City Council agenda with two additions.**

- (2) Add New Items to September 2, 2003 Amended Agenda

**The Committee recommended three additions to the September 2, 2003 City Council agenda.**

- **Mayor and Council Member Requests**
- **City Manager Requests**
- **City Attorney Requests**
- **City Clerk Requests**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rule Committee – August 27, 2003 (Cont'd.)

Vice Mayor Dando, Chair

- (b) City Council (Cont'd.)
  - (3) List of Reports Outstanding  
**The Committee noted and filed the City Manager's report listing three staff reports outstanding for the September 2, 2003 Council agenda.**
- (c) Legislative Update
  - (1) State
    - (a) 2003 League of California Cities Voting Delegate at the Annual Business Meeting
    - (b) 2003 League of Cities Resolutions  
**These items were heard by the Council on September 2, 2003.**
  - (2) Federal
    - (a) 2003 Mid-Year Federal Legislative Report  
**The Committee recommended acceptance of the mid-year Federal legislative report from the City's Federal lobbyist firm of Patton Boggs, LLP, in Washington, D.C.**
- (d) Meeting Schedules  
**There were none.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointments to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals  
**There were none.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting was adjourned at 2:30 p.m.**

**The Ruled Committee Report, and the Actions of August 27, 2003 were accepted.**

#### 3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

**No Report.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.4 San Jose Elections Commission (formerly Campaign Finance Review and Ethics Board) Interviews.**

**Recommendation:** Interview three remaining applicants to the San Jose Elections Commission (formerly Campaign Finance Review and Ethics Board) for two four-year terms ending March 1, 2007. (City Clerk)

(Continued from 5/27/03 – Item 3.4 et al., and 9/2/03 – Item 3.4)

**Heard last in the afternoon. Vernon Williams and Jesus Valencia were interviewed by the City Council; the third applicant withdrew. Council will take action on 9/16/03.**

#### **3.5 Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2002-2003.**

**Recommendation:** Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2002-2003. (City Manager's Office)

**Ordinance No. 26977 adopted.**

#### **3.6 Approval of fiscal actions related to the 2003-2004 General Fund Rebalancing Plan.**

**Recommendation:** Approval of the following actions to implement the 2003-2004 General Fund Rebalancing Plan as approved by City Council on September 2, 2003.

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in various funds as detailed in Attachment A of this report.

**Ordinance No. 26978 adopted.**

**Resolution No. 71738 adopted.**

- (b) Adoption of resolutions amending the Schedule of Fees and Charges and Schedule of Fees for the Use of Parks and Recreational Facilities relating to fees for the Library Department, and Parks, Recreation and Neighborhood Services Department as outlined in Attachment B.

**Resolution Nos. 71739 and 71740 adopted.**

- (c) Net elimination of 40.38 positions as detailed in Attachment C of this report. CEQA: Not a Project. (City Manager's Office)

**Approved.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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#### **4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair No Report.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.2 Report of the Driving a Strong Economy Committee – August 25, 2003 Council Member Williams, Chair**

- (a) Policy Discussion on Wireless Communication Policy  
**The Committee unanimously accepted the Staff Report, as amended.  
See Item 4.3 for Council Action taken.**
- (b) Discussion on construction impact mitigation and private development  
**The Committee unanimously accepted the Staff Report.**
- (c) Report on Homeless Policy  
**The Committee unanimously accepted the Staff Report.  
See Item 4.4 for Council Action taken.**
- (d) Report on Secondary Units  
**The Committee unanimously accepted the Staff Report.**
- (e) Oral petitions  
**(1) Phylliss Ward, and Betty Feldheym spoke on Secondary Units and  
Housing Production, and the Homeless Strategy.  
(2) Sister Margaret Gregg spoke on the Homeless Strategy.**
- (f) Adjournment  
**The meeting was adjourned at 12:17 p.m.**

**The Driving a Strong Economy Committee Report, and the Actions of August 25, 2003 were accepted.**

### **4.3 Approval of the proposed update to the City Council Land Use Policy for Wireless Communications Facilities.**

**Recommendation:** Adoption of a resolution approving an updated City Council Land Use Policy for Wireless Communications Facilities. (Planning, Building and Code Enforcement)

[Driving a Strong Economy Committee referral 8/25/03 – Item 4.2(a)]

**Item 4.3 was deferred to 9/16/03.**

### **4.4 Approval of the City of San José's Homeless Strategy.**

**Recommendation:** Approval of the City of San José's Homeless Strategy. (Housing)

[Driving a Strong Economy Committee referral 8/25/03 – Item 4.2(c)]

**Approved.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.5 Public Hearing on the 2002-2003 Consolidated Annual Performance Evaluation Report for Housing and Community Development Programs.**

**Recommendation:** Public Hearing for public review and comment, on the 2002-2003 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

**Council held a Public Hearing for public review and comment, and the Mayor announced the public comment period continues until 9/23/03. Council will take action on 9/23/03.**

### **4.6 Approval of a Memorandum of Understanding related to Habitat Conservation Plan and Natural Community Conservation Plan.**

**Recommendation:** Recommendation: Approval of the Memorandum of Understanding (MOU) with the County of Santa Clara, Santa Clara Valley Water District, and Valley Transportation Authority for the Santa Clara Valley Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). CEQA: Exempt, PP03-08-268. (Planning, Building and Code Enforcement)

[Driving a Strong Economy Committee referral 6/23/03 - Item 4.2(d)]

**Item 4.6 was deferred.**

### **4.7 Approval of various actions related to the Civic Plaza Parking & Traffic Committee.**

**Recommendation:** Adoption of a resolution extending the Civic Plaza Parking & Traffic Committee (PTC) through 2005 and authorizing the PTC to reduce the number of persons on the committee to 17 members. CEQA: Not a Project. (Public Works)

**Resolution No. 71741 adopted.**

### **4.8 Approval of the new location for the New Civic Center off-site employee parking garage.**

**Recommendation:** Adoption of a resolution approving the new location for the Civic Center Garage Project to conform to the location studied in the SEIR, and directing staff to implement mitigation measures identified and described in the SEIR, and to proceed with the design documents. CEQA: Resolution to be adopted. Council District 3. SNI: 13th Street. (Public Works)

**Resolution No. 71742 adopted.**

**CEQA Resolution No. 71743 adopted.**

## **5 RECREATION & CULTURAL SERVICES**

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- 5.1 Report of the All Children Achieve Committee**  
**Council Member Yeager, Chair**  
**No Report.**

## **6 TRANSPORTATION SERVICES**

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- 6.1 Report of the Building Better Transportation Committee**  
**Council Member Cortese, Chair**  
**No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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- 7.1 Public Hearing on a Commercial Solid Waste and Recyclables Collection Franchise application.**

**Recommendation:** PUBLIC HEARING on the Commercial Solid Waste and Recyclables Collection Franchise application of Environmental Solutions Waste and Recyclables dba Environmental Solutions Debris Box Service, approval of ordinance granting the franchise, and approval of Commercial Solid Waste and Recyclables Collection Franchise agreement with Environmental Solutions Waste and Recyclables dba Environmental Solutions Debris Box Service. CEQA: Negative Declaration, PP92-11-308. (Environmental Services)

**Ordinance No. 26979 passed for publication.**

## **8 AVIATION SERVICES**

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- 8.1 Approval of various actions related to the Airport's Passenger Facility Charges.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to submit an application to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFCs) for various capital projects at the Norman Y. Mineta San José International Airport in the amount of \$145,526,000 and to amend the scope of the City's authority to collect and expend (PFC's) for the Expanded Noise Attenuation Project. CEQA: Resolution Nos. 67380 and 71451, PP 03-08-261. (Airport)

**Resolution No. 71744 adopted.**

## 9 PUBLIC SAFETY SERVICES

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### 9.1 Acceptance of the San José Police Department's response to the 2002-2003 Santa Clara County Civil Grand Jury's report.

**Recommendation:** Acceptance of the San José Police Department's response to the 2002-2003 Santa Clara County Civil Grand Jury's report entitled "Review of Police Department Arrest and Information Release procedures: Three Cases." CEQA: Not a Project. (Police)

**Report Accepted.**

## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### THE REDEVELOPMENT AGENCY BOARD CONVENED TO CONSIDER ITEM 10.1 IN A JOINT SESSION

### 10.1 Acceptance of the quarterly CIP and SNI status reports.

**Recommendation:** Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP) including park, library, and public safety bond projects and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

**Status Reports Accepted.**

**Staff requested to:**

- (1) Rank issues on Citywide CIP Performance Measurements that are preventing Staff from *on-time, 100%* project completion.
- (2) Add to Near Term Project Completions, the number of jobs created by City projects.
- (3) Consider adding into the quarterly CIP and SNI status reports, if there is little or no impact to Staff's budget, projects and project completions sorted by each Council District.
- (4) For City acquired property of new projects, instruct contractor or responsible party to raze old structures from the site, set up signage, including picture of new construction, and scheduled start date.

**THE REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING  
WAS ADJOURNED.**

- Closed Session Report  
No Report.

- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:  
**None.**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:  
**None.**

- **Open Forum**
  - (1) **Alfredo Kuba spoke on civil rights violations.**
  - (2) **Bob Jaffee spoke of concerns on the new strategic plan for seniors.**
  - (3) **Ray Bowdle spoke on the current proposed budget.**
  - (4) **William Garbett spoke of BART issues.**
  - (5) **Ross Signorino spoke on a safety issue for de Vargas Elementary School.**
  - (6) **Yolanda Reynolds spoke of homeless issues.**

- **Adjournment**

**The Council of the City of San José adjourned in memory of Bob Clayton, Acting Director and one of the founders of ARIS.**

**The Council of the City of San José adjourned at 3:35 p.m.**